

AMENDED IN ASSEMBLY APRIL 3, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2846

Introduced by Assembly Member Daucher

February 24, 2006

~~An act to amend Section 56195.10 of the Education Code, relating to special education. An act to add Sections 17551.5 and 17566 to the Government Code, relating to state-mandated local programs.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2846, as amended, Daucher. ~~Special education funding. State-mandated local programs: local educational agencies.~~

Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, including school districts, the state is required to provide a subvention of funds to reimburse the local government, with specified exceptions. Existing law establishes a procedure for local governmental agencies to file a test claim for reimbursement of these costs with the Commission on State Mandates. Claims that are filed after the determination of the test claim are transferred to the Controller, who is required to pay and audit the claims from funds made available for that purpose.

This bill would require on or before January 1 of each year the Commission on State Mandates to preliminarily determine whether each bill that is chaptered during the preceding calendar year mandates a new program or higher level of service, as specified. The bill would also require the commission to, within 90 days of the effective date of each bill that is chaptered as an urgency statute, preliminarily determine whether the bill mandates a new program or

higher level of service, as specified. The bill would provide that the preliminary determination made by the commission would not bind the commission, as specified.

The bill would, if a reimbursement claim is filed with the Controller before January 1, 2007, relating to educational services provided by a local educational agency, as defined, and no appropriation is made on or before January 1, 2007, require the Controller to provide the local educational agency with the option of receiving 80% of the total amount claimed in full satisfaction of the claim. The bill would require a local educational agency to accept or reject the option by March 31, 2007. The bill would authorize the Controller to object to the agency's election to settle the claim and determine whether to audit the agency within 90 days of the agency's election.

The bill would require the Department of Finance, the Legislative Analyst's Office, and the State Department of Education to establish a working group to establish, to the extent feasible, a unit rate for educational services mandated by the state as of January 1, 2007, and provided by a local educational agency. The bill would require that working group to establish a process for determining a unit rate, where that unit rate is appropriate, for new mandates identified by the commission. The bill would require the new unit rate to be added to the original unit rate. The bill would provide that to the extent a unit rate is not appropriate for a particular mandate, the law relating to reimbursement claims as it existed on January 1, 2006, shall apply.

The bill would, if a reimbursement claim is initially filed with the Controller on or after January 1, 2007, authorize a local educational agency to settle the claim by using the established unit rate instead of the commission's allocation formula or uniform allowance. The bill would prohibit the Controller from auditing a claim that is settled by using the established unit rate.

~~Existing law requires special education funds to be distributed by the special education local plan area as allocated instructional personnel service units unless an alternative method of distribution is specified in multidistrict special education local plan areas through an agreement that includes a policymaking process that addresses the distribution of funding.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 17551.5 is added to the Government*
2 *Code, to read:*

3 17551.5. (a) *On or before January 1 of each year, the*
4 *commission shall make a preliminary determination of whether*
5 *each bill that is chaptered during the preceding calendar year*
6 *mandates a new program or higher level of service within the*
7 *meaning of Section 6 of Article XIII B of the California*
8 *Constitution.*

9 (b) *The commission shall within 90 days of the effective date*
10 *of each bill that is chaptered as an urgency statute, preliminarily*
11 *determine whether the statute mandates a new program or higher*
12 *level of service within the meaning of Section 6 of Article XIII B*
13 *of the California Constitution.*

14 (c) *The preliminary determination made by the commission*
15 *pursuant to this section is not binding on the commission in*
16 *making its determination pursuant to Section 17555.*

17 SEC. 2. *Section 17566 is added to the Government Code, to*
18 *read:*

19 17566. (a) (1) *If a reimbursement claim is filed with the*
20 *Controller before January 1, 2007, under this chapter relating to*
21 *educational services provided by a local educational agency, and*
22 *no appropriation is made to pay the claim on or before January*
23 *1, 2007, the Controller shall provide the agency with the option*
24 *of receiving 80 percent of the total amount claimed as full*
25 *satisfaction of the claim.*

26 (2) *A local educational agency that is offered the option of*
27 *receiving 80 percent of the total amount claimed as full*
28 *satisfaction of the claim shall make an election to accept or*
29 *reject the option on or before March 31, 2007.*

30 (3) *The Controller may, within 90 days of the election by the*
31 *local educational agency to settle a reimbursement claim under*
32 *this subdivision, object to the agency's election and determine*
33 *whether to audit the agency.*

34 (b) (1) *The Department of Finance, the Legislative Analyst's*
35 *Office, and the State Department of Education shall establish a*
36 *working group to establish, to the extent feasible, a unit rate for*
37 *educational services mandated by the state as of January 1,*
38 *2007, and provided by a local educational agency.*

1 (2) *The working group shall establish a process for*
2 *determining a unit rate, where that unit rate is appropriate, for*
3 *new mandates identified by the commission. The new unit rate*
4 *shall be added to the original unit rate.*

5 (3) *If the unit rate is not appropriate for a particular mandate,*
6 *the law relating to reimbursement claims as it existed on January*
7 *1, 2006, shall apply.*

8 (c) (1) *If a reimbursement claim is initially filed with the*
9 *Controller on or after January 1, 2007, under this chapter*
10 *relating to educational services provided by a local educational*
11 *agency, the agency may settle the reimbursement claim by using*
12 *the unit rate established under subdivision (b) instead of the*
13 *commission's allocation formula or uniform allowance.*

14 (2) *On or before June 30 of each year, each local educational*
15 *agency shall elect whether it will use the unit rate established*
16 *under subdivision (b) or the commission's allocation formula or*
17 *uniform allowance to settle a reimbursement claim filed under*
18 *this chapter in the following fiscal year.*

19 (3) *The Controller shall not audit a reimbursement claim*
20 *settled by using the unit rate established under subdivision (b).*

21 (d) (1) *For the purposes of this section, the term "local*
22 *educational agency" means a school district, a county office of*
23 *education, or a charter school.*

24 (2) *Notwithstanding Section 17519, the term "local*
25 *educational agency" does not include a community college*
26 *district.*

27 ~~SECTION 1. Section 56195.10 of the Education Code is~~
28 ~~amended to read:~~

29 ~~56195.10. Unless the process described in subdivision (i) of~~
30 ~~Section 56195.7 specifies an alternative method of distribution of~~
31 ~~state and local funds among the participating local educational~~
32 ~~agencies, the funds shall be distributed to the participating local~~
33 ~~educational agencies by the special education local plan area as~~
34 ~~allocated instructional personnel service units and operated as~~
35 ~~computed in Chapter 7 (commencing with Section 56700) as that~~
36 ~~chapter existed on December 31, 1998, or Chapter 7.1~~
37 ~~(commencing with Section 56835).~~